

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 2

REMARKS/ARGUMENTS

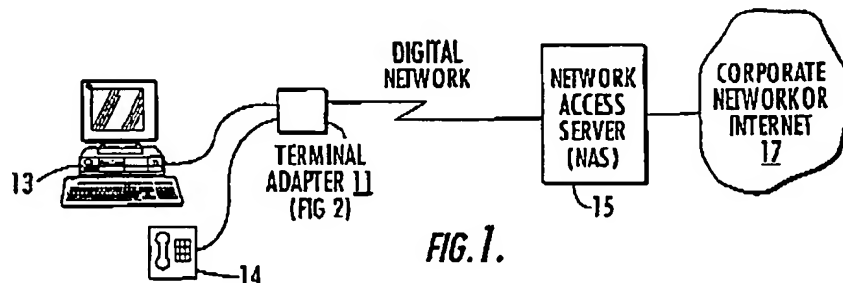
Introduction

In the Office Action mailed April 7, 2005, claims 1-20 remain pending in the present application. The Examiner rejected all claims (1 – 20), with claims 1-9 and 12-20 rejected under 35 U.S.C. §103(a) as being unpatentable over the Netscreen Security Appliances ("Netscreen") publication when considered with U.S. Patent No. 6,614,803 ("Farnsworth"). Claims 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable in light of the Netscreen publication in combination with Farnsworth and further in view of official notice that it was old and well known in the art to provide notification via telephone or email.

The Examiner reported that the arguments filed in the March 17, 2005 response were considered, but are now moot in light of the new grounds for rejection.

Discussion Of Farnsworth Reference

The Farnsworth reference discloses a terminal adapter (11) that interfaces a personal computer (13), a form of Data Terminal Equipment ("DTE") as it is called in the patent, with the Internet (17) by way of a network access server (NAS) (15). Figure 1 from Farnsworth is reproduced below to facilitate discussion.

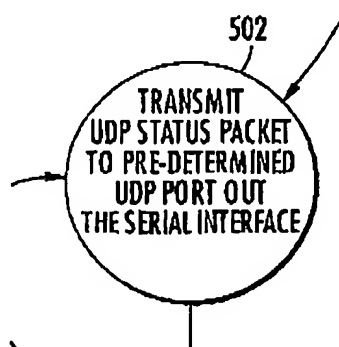


Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 3

The Examiner has identified a section of the text that discloses communication of status information. That section is from the Summary section, and states: "...it is necessary to provide a (logical) port additional to the data port to the DTE for control and status signaling." (Col. 2, lines 15-17.)

Because this section is from the Summary, it is appropriate to examine the Detailed Description for further details as to how the status signaling works. The text first describes that a "sequence of events that are conducted to establish a digital communication session data link between the DTE and the network access server." (Col. 4, lines 57-59, see also, Figure 4.) The text in column 5, lines 1-34 disclose the establishment of this link, in which a state is reached in which a data link is established. This specific state is referenced in Figure 5, and the relevant text states: "[o]nce the state diagram of FIG. 4 transitions to state 407, the state diagram of FIG. 5 transitions to a corresponding data link established state 502." (Col. 5, lines 31-33.)

State 502 is particularly relevant, as it pertains to the communication of a status packet. State 502 from Figure 5 of Farnsworth is reproduced below:



At this point, it is clear that a status packet is communicated, but the next few paragraphs are key to understanding where and how the status packet is communicated. Certain portions are emphasized in the text below.

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 4

In this state, *the terminal adapter may proceed to transmit UDP-based messages to the DTE, by 'spoofing' the DTE's listener task software into thinking that such messages are associated with the network access server, when they are actually sourced from the terminal adapter's communication controller.* In particular, in state 502, the terminal adapter's controller creates an IP packet stream 50 containing PPP header 51, IP header 52, UDP header 53 and control/status information fields 54. The UDP header 53 is employed as the transport mechanism for conveying status information. ...

This DTE-destined UDP packet is then placed in the serial data path through the serial data interface 25 and conveyed out the terminal adapter's data port to the DTE 13. As mentioned earlier, and as will be described below with reference to the state diagram of FIG. 6, once the data link has been established, the DTE is running a listener task routine, which captures all UDP packets that are directed to the predetermined port number. The DTE's TCP/IP stack will pass the status information conveyed in the captured packets to the program.

(Col. 5, lines 34-64)

In summary, Farnsworth discloses passing status information only from the Terminal Adapter to the DTE (personal computer). This is emphasized in state 504 of Figure 5 as well. There is no disclosure of status information passing from the DTE to the network. *Thus, Farnsworth passes status information only from the terminal adapter to the DTE – this is in the opposite direction from what is claimed.*

While Farnsworth does disclose passing control information from the DTE, those control messages are not passed to the network, and further, such messages are not status information. The specification states:

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 5

If the user sends a control message to the terminal adapter from the DTE, for example, initiates a change in an operational parameter of the terminal adapter, an associated UDP command packet is transmitted to the terminal adapter in state 608. As described above, *this message will be tagged in the terminal adapter as a message intended for it, rather than the network access server, so that the controller 23 will disable the AND gate 29 and prevent the received packets from being forwarded via the network interface 31 to the network access server 15.* (Col. 6, lines 54-63.)

Discussion Of Office Action

Farnsworth Reference

The Office Action alleges that "Farnsworth disclose a method and system for maintaining a status indication in a network operations center (15, network access server, see Figure 1) for a terminal adapter (11; see Figure 1) connected to a computer network (digital Network, see Figure 1), comprising: receiving a first status update message (see column 2, lines 10-7 [sic]); relaying the first status update message; receiving the first status update message; and recording a status indication and recording time." (Office Action, page 2, item #3.)

The specific limitations of claim 1 alleged be to disclosed by Farnsworth are reproduced below with certain limitations emphasized:

receiving a first status update message from the terminal adapter by the network node indicating a first parameter file version number stored in the memory of the terminal adapter, the first status update message further including a terminal adapter identification number and a first primary communication path status;
relaying the first status update message from the network node to the network operations center;

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 6

receiving the first status update message at the network operations center and examining the terminal identification number and the parameter file version number; and

recording a status indication and recording time in a status indication table at the network operations center, wherein the status indication table associates the status indication and recording time with the terminal adapter identification number.

Claim 1 requires the status indication to be passed from the terminal adapter to the network node, and then to the network operations center, as shown below:

Terminal Adapter ----> Network Node ----> Network Operations Center

Farnsworth discloses a status indication passed from the terminal adapter to the DTE (e.g., terminal), as shown below:

DTE (Computer) <-----Terminal Adapter

In summary, Farnsworth discloses passing status information in the other direction and to other entities. Thus, while Farnsworth discloses passing a status indication, it does not disclose passing the status indication to a network operations center as recited in claim 1. Independent claim 12 also recites similar limitations, including "a network operatively connected to the terminal adapter adapted to receive a first status indication message from the terminal adapter" and a network operations center operatively connected to the network adapted to receive the first status indication message from the network" (emphasis added). Thus, independent claims 1 and 12 require information to be sent from the terminal adapter to the network operations center.

In addition, Applicant contends that Farnsworth does not disclose many of the other limitations, including passing a terminal adapter identification number, recording the status indication in a table and recording the time. Other distinctions can be drawn,

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 7

including that the status information conveyed is not that of a communication path. Not even considering these other distinctions, it is evident that Farnsworth does not disclose the limitations alleged to be recited in claims 1 and 12.

"Netscreen" Reference

The Office Action also cited the Netscreen reference as disclosing "dial-backup or dual Ethernet ports for redundant Internet connections when network uptime is business critical." (Office Action, page 3.) This is alleged to disclose "first communication path" and a "second communication path."

Applicant notes that the specification distinguishes between *network interfaces* and *communication paths*. A network interface is a point where the terminal adapter and a network conjoin. A communication path pertains to the end-to-end transfer of information. A communication path may involve one or more network interfaces. See, e.g., pages 31-34 of the specification. A network interface by itself does not provide information about a communication path.

For example, it is possible in the present invention for the first communication path and second communications path to use the *same* telephone interface. (See page 34, lines 18-20). This could occur, for example, by the terminal adapter dialing a first telephone number to establish a first communication path and a second telephone number to establish a second communication path, both using the same network (telephone) interface. Other embodiments may involve separate network interfaces.

Further, a network interface (e.g., telephone interface) may have an operational status, whereas the communication path may have a different operational status. Thus, the concept of a communication path is distinct from a network interface, and this distinction is not disclosed by the Netscreen reference.

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 8

The Combination of References Does Not Render Obvious the Present Invention

It is readily apparent that the Farnsworth reference by itself does not disclose the limitations recited in independent claims 1 and 12, including namely that status information is sent from the terminal adapter to a network, and then to a network operations center. Other limitations recited in independent claims 1 and 12 alleged to be disclosed in Farnsworth are absent as well. Further, the concept of a communication path, distinct from a network interface, is not disclosed by the Netscreen reference.

The combination of references must disclose each and every limitation in the claim to establish a *prima facie* case of obviousness. This has not been accomplished. Thus, independent claims 1 and 12 are patentable over the references. Further, because dependent claims 2- 11 and 13-20 incorporate the limitations of the respective independent claim from which they depend, the dependent claims are also patentable over the prior art references.

Summary

Applicant submits at least the Farnsworth does not disclose conveying status information as recited in the claims and cannot be used by itself or in conjunction with other references to anticipate the limitations in the independent claims..

Applicant desires to draw prosecution to a close in this third, non-final office action. Applicant submits that the two independent claims herein are patentable over the references identified to date, as are the remaining dependent claims. None of the references identified to date anticipate, nor when combined, render obvious the present invention. Applicant respectfully requests that all claims in the present application be placed in a condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper.

Appl. No.: 10/613,129
Response dated 04/19/2005
Reply to Office action of April 7, 2005
Page 9


However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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<p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Atlanta Office (404) 881-7000 Fax Atlanta Office (404) 881-7777</p>	<p>CERTIFICATION OF FACSIMILE TRANSMISSION</p> <p>I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.</p> <p> 4/19/05</p> <p>Laisha Richardson Date</p>
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